

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

Dated this the 18th day of June, 1998

Before:

THE HON'BLE MR. JUSTICE R.V. RAVEENDRAN

Writ Petition No. 29418 of 1993

M/s. Hotel Tourist,
Race Course Road,
Anandarao Circle,
Bangalore - 560 009,
by its Managing Partner
Sri P. Vadiraja Rao

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..Petitioner

(By Sri Udaya Holla, Advocate)

-Vs-

1. Assistant Executive Engineer
(water Works)
Bangalore Water Supply &
Sewerage Board,
Chikkalalbagh,
Bangalore;
2. Internal Auditor,
Water Supply & Sewerage Board,
Cauvery Bhavan,
Bangalore - 560 009;
3. Chairman,
Bangalore Water Supply &
Sewerage Board,
Cauvery Bhavan,
Bangalore-560 009

..Respondents

(By Sri M.V. Seshachala, Advocate)

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Writ Petition is filed praying to quash the
2nd respondent's report bearing No.BWSSB/A.O(R)/3/
DGN/AEHT/93-94 dated 26-6-93 at Annexure-P.

This writ petition coming on for preliminary
hearing this day, the Court made the following:-

ORDER

The petitioner is a consumer of water supplied by the Bangalore Water Supply and Sewerage Board. Petitioner is charged for the water supplied as per the readings recorded in the meter installed in the petitioner's premises. According to petitioner, the charges for the water supplied was being paid regularly. According to the petitioner, in fact, it was getting water by tanks from outside sources also. When matter stood thus, in the a bills for July 1993 and August 1993 [Annexure-K and M] in addition to the regular charges for water consumed, the Board claimed Rs.42,910/- as an audit short claim for the period April 1991 to June 1993, as per Audit Report dated 26-6-1993. When he petitioner objected to the demand for Rs.42,910/-, a copy of the Internal Auditor's Report dated 26-6-1993 [Annexure-P] was furnished to the petitioner. It is stated that the aforesaid claim has been repeated in the subsequent bills. It is unnecessary to refer to them as the demand is a mere reiteration of the earlier demand. Feeling aggrieved, the petitioner has filed this petition for quashing the Internal Auditor's report

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dated 26-6-1993 [Annexure-P] and quashing of the demand for Rs.42,910/- in Annexure-K and M, in pursuance of the said Audit report.

2. It is admitted by the respondents that before making the said demand for payment of Rs.42,910/-, petitioner was not given an opportunity to show cause. The audit report was also not furnished at that stage. It was furnished subsequent to the petitioner objecting to the demand. In the circumstances, the demand for Rs.42,910/- has to be read down as a proposal to claim the said sum on account of earlier short claims and the petitioner should be given an opportunity to file detailed objections and then the Board should take a decision on the demand to be made in accordance with law. If it is not so read down, it ^{may} ~~will~~ have to be struck down as being opposed to principles of natural justice.

3. The learned Counsel for the Board submitted that the petitioner has an alternative remedy by way of appeal under the Act and the petitioner has not exhausted the said remedy, before filing this petition. When the demand is opposed to ~~the~~ principles of natural justice and

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when the petition is pending ^{in this court,} for merely five years, the mere existence of an alternative remedy, will not be a bar to the maintainability of the writ petition.

4. In the circumstances, this petition is allowed and the bills sent in July and August 1993 [Annexures K & M] in so far as they relate to the short claim of Rs.42,910/- relating to period from April 1991 to June 1993 is read as a provisional order on the basis of the report Annexure-P, proposing to recover the said sum. The petitioner is permitted to file additional objections to the demand in continuation of the earlier objections dated 21-7-1993, within one month from this date. The respondents shall consider such objections and then pass appropriate orders in regard to the claim in accordance with law. Till then, recovery of the said amount shall not be enforced and the water supply to the petitioner's premises shall not be disconnected for nonpayment of the said amount. Any amount that is deposited by the petitioner in pursuance of the interim order, shall be dealt with in accordance with the final orders to be passed by the Board.

Sd/-
JUDGE

